IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SEVENTEENTH DAY OF JUNE TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,
CHIEF JUSTICE

WRIT PETITION NO : 10171 of 1992

Between:

1 G.S.S.Prakasa Rao (died),
S/o.David, The Cuddpah dist cooperative Central Bank Ltd.,
Cuddapah.
2 G.K.L.Sugunamma
3 G.Prabhakara Rao
4 G.V.Chandra Shekar
5 G.P.L.Sobhan Babu
6 G.William Robert
7 G.D.D.Wilson Babu
8 G.S.Sunil kumar
9 V.Vijay kumar
10 G.L.Manoranjithamma
11 G.D.Hemalatha
12 G.Sara Sugunamma
13 G.S.Sunitha Kumari

Petitioners 2 to 13 are brought on record as LRs of 1st petitioner as per court order dt 30.12.94 in WPMP 24424/94.

..... PETITIONERS

AND

The Cuddapah Dist Cooperative Central Bank Ltd., Cuddapah,
Rep.by its General Manager, Cuddapah dist.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or direction or order particularly in the nature of MANDAMUS declaring that the proceeding in Rc.No.BKG/B-15/91-92, dated 5.6.1992 of the respondent as being illegal, improper, unjust and contrary to law relating to payment of gratuity apart from violative of principles of natural justice while directing the respondent to pay the gratuity amount of Rs.87,330 payable to the petitioner along with interest @18% P.A and pass such other order or orders.

For the Petitioner : MR.E.S.RAMACHANDRA MURTHY, Advocate.

For the Respondent : MR.R.V.SUBBA RAO, Advocate. G.P. for Cooperation.

The Court Made the Following :

ORAL ORDER:

1. G.S.S. Prakasa Rao, Branch Manager, Badvel, who was later transferred as Assistant General Manager, Cuddapah, on 8.11.1982, filed this writ petition questioning the action of the respondent in not paying the amount of gratuity of Rs.87,330=00 along with interest on the date of his retirement. Petitioner questioned the legality and validity of proceedings dated 05.06.1992 of the respondent as being illegal, violative

and bad in law. By the said proceedings, the respondent informed the petitioner's lawyer that a sum of Rs.18=00 towards trunk call charges, Rs.8,100=00 towards ex-gratia paid for three years and overdrafts covered under surcharge notice amounting to Rs.36,789-39, totalling to Rs.44,907-39, was paid to the petitioner.

2. Notice has been issued to respondent – Bank and affidavit in reply has been filed pointing out that a sum of Rs.44,909-37 was still due and payable to the bank.

3. During the pendency of the writ petition, by way of interim directions dated 25.03.1992, a sum of Rs.42,420=00 was paid to the petitioner. Petitioner died during the pendency of the writ petition and now he is represented by legal representatives.

4. Out of gratuity amount of Rs.87,330=00 payable to the petitioner as on 5.6.1992, only a sum of Rs.42,420=00 was paid by way of interim directions dated 25.3.1992, leaving a balance of Rs.44,910=00, which despite filing of the writ petition has not been paid. Learned counsel for the respondent was asked to obtain instructions as to the amounts due and payable by the petitioner to the bank. He has not been able to obtain instructions till date.

5. All amounts due and payable by the petitioner were realised from his pay by the respondent – Bank at the time of retirement. Therefore, there was no reason for the respondent

– Bank to have withheld the amount of gratuity payable to the petitioner. There is no material on record to show that any amount is due and payable by the petitioner to the respondent – Bank. Therefore, the action of respondent – Bank in withholding the gratuity amount which admittedly was due and payable by 05.06.1992 cannot be held to be justified. Gratuity on becoming due and payable ought to have been paid. It was not paid despite sending notice and filing writ petition. There is no reason why respondent – Bank should not make payment of interest to the petitioner on the said amount. Writ petition was filed on 3.8.1992.

6. In view of the above, the writ petition is allowed directing the respondent – Bank to make payment of Rs.44,910=00 along with interest thereupon from 5.6.1992 at the rate of 10% per annum till date of payment. Amount shall be paid by respondent – Bank to the legal representatives, who have already been brought on record, within a period of three months from the date of receipt of writ order from this court. No costs.

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DEVINDER GUPTA. C.J.,

Dated: 17.06.2004.
VRK.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, Chief Justice, on Thursday the seventeenth day of June, two thousand and four.

To

1. The Cuddapah Dist Cooperative Central Bank Ltd., Cuddapah, Rep.by its General Manager, Cuddapah dist.
2. 2 CCs to G.P. for Cooperation, High Court Buildings, Hyderabad (OUT)
3. 2 CD copies.

HON'BLE SRI DEVINDER GUPTA,
CHIEF JUSTICE

W.P.NO. 10171 OF 1992.

Dt: 17.06.2004.